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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/669,690

09/25/2003

Kiyoteru Yuta

A-9936

4437

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7590

06/10/2005

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

EXAMINER

JACKSON, ANDRE L

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/669,690

Applicant(s)

YUTA ET AL.

Examiner

Andre' L. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7-12, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 4,386,752 to Pavlak et al. Pavlak et al discloses a hinged clamp fastener for conduit comprising;

a base (22) having engagement means (62) engageable with a panel (14) and having an engagement protrusion (32); a conduit holder adapted to hold conduit (12) and pivotally supported on the base for movement toward and away from the base; and holder engagement means (38, 40) for connecting the conduit holder to the base while sandwiching end portions of electrical leads (16) between the base and the conduit holder, wherein the clamp fastener further comprises first and second engagement portions (52, 48) for receiving and retaining respective support legs (54, 56) therein formed on an inner surface with cooperable latch parts, and wherein the first engagement portion is located adjacent to the holder engagement means, and the second

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engagement portion is located adjacent to the pivotal support (26) of the conduit holder to the base.

As to claims 2, 9 and 15, Pavlak et al discloses conduit holder includes first and second arcuate arms (58) pivotally supported on the base at one end and having free ends (36, 42) constructed from connection to one another to form a cylindrical holder for surrounding and holding the conduit. As seen in Fig. 5, the engagement portions define U-shaped inlets for insertion of the respective support leg.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavlak et al in view of USPN 6,708,933 to Girodo. Pavlak et al does not disclose that the arcuate arms are individually pivotally supported on the by separate hinges as set forth in applicant's claims. However, Girodo teaches a harness clamp for vehicles including a base member (6) having an engaging means (3a) to attach to a panel (3b). A harness holder (18) in the form of two arms connected individually at an edge of the base by separate hinges (21) which latch or lock (29, 30) together to encircle and retain the harness. Girodo's harness clamp arrangement allows for correction of any positioning errors of either the locking arms or of supports of the vehicle, while reducing costs, ensuring compact design and providing ease of installation.

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Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention was made to modify the hinged clamp fastener of Pavlak et al to incorporate the harness clamp arrangement of Girodo to provide an improved and more flexible hinged clamp fastener that allows for correction of any positioning errors of either the arcuate arms or of the conduit support, while reducing costs, ensuring compact design and providing ease of installation.

As to claim 6, Pavlak et al discloses that the base includes a stop (Fig. 3) define by a horizontal section that abuts a corresponding stop (44) at the free end of conduit holder as it pivots toward the base.

Response to Applicant's Arguments

Applicant's arguments filed in the Amendment of March 22, 2005 have been fully considered but they are not persuasive. At the outset, applicant's remarks beginning on page 1 of the above amendment are directed to the prior art relied upon (Pavlak et al) failing to disclose or suggest the limitations as claimed. In particular, applicant states Pavlak et al fails to disclose or suggest a fastener as recited in claim 1, for a floor carpet and a wire harness and independent Claim 7 recites a fastener for fastening a floor carpet and a wire harness to a rocker panel and for supporting a rocker molding independently of the rocker panel. Further, on page 2 and 3, applicant states Pavlak et al fails to disclose or suggest a holder engagement means for connecting the wire harness end portion of a holder to the base while sandwiching a floor carpet between the base and the wire harness holder, wherein the fastener further comprises first and second rocker molding engagement portions for receiving and retaining respective support legs

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therein. In response to these arguments, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Therefore, the disclosure of Pavlak et al recites a hinged clamp fastener including the following structure equating to applicant's recited structural limitations: a base (22); an engagement means (62); an engagement protrusion (32); a holder (20); and a holder engagement means (pair of engagement portions) (52, 48). Therefore, Pavlak et al satisfies the structural limitations as claimed and is capable of performing the intended use as claimed, thus meeting the structural limitations set forth in applicant's claims.

Lastly, in response to applicant's remarks on pages 3 and 4 that the combination rejection of Pavlak et al in view of Girodo is erroneous, the Examiner disagrees. In fact, the teachings of Girodo enhances the hinge clamp fastener of Pavlak et al by providing an improved and more flexible hinged clamp fastener that allows for correction of any positioning errors of either the arcuate arms or of the conduit support, while reducing costs, ensuring compact design and providing ease of installation.

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For the forgoing reasons stated above, the Examiner believes all of applicant's arguments have been addressed and applicant's claims 1-16 as presented remain rejected as being unpatentable over Pavlak et al and Pavlak et al in view of Girodo.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (9:30 am - 6 pm).

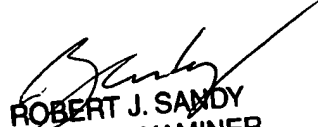
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson
Patent Examiner
AU 3677

ALJ


ROBERT J. SANDY
PRIMARY EXAMINER